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Human Rights Council
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Agenda item 4
Human rights situations that require the Council's attention

Djibouti,* Somalia:* draft resolution

32/... Situation of human rights in Eritrea

The Human Rights Council,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant international human rights instruments,

Recalling resolution 91 and decisions 250/2002 and 275/2003 of the African Commission on Human and Peoples' Rights,

Recalling also its resolution 5/1, on institution-building of the Human Rights Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, both of 18 June 2007, and stressing that the mandate holder shall discharge his or her duties in accordance with those resolutions and the annexes thereto,

Recalling further its resolutions 20/20 of 6 July 2012, 23/21 of 14 June 2013, 26/24 of 27 June 2014 and 29/18 of 2 July 2015,

Taking note that Eritrea is a State party to international and regional human rights instruments, and urging it to comply with its international obligations therefrom,

Noting the participation of Eritrea in the second cycle of the universal periodic review and its acceptance of 92 recommendations, its programme with the United Nations Development Programme to implement those recommendations, and calling upon the Government of Eritrea to take immediate concrete measures to implement those recommendations,

Welcoming the action taken by the Government of Eritrea to protect and promote the economic and social rights of its people, including through the early achievement of the Millennium Development Goals and its commitment to the Sustainable Development Goals,

* State not a member of the Human Rights Council.

Welcoming also the commitment of the Government of Eritrea to the promotion of gender equality, including through its programmes to end female genital mutilation and its campaign to end child marriage,

Welcoming further the meeting held between the Government of Eritrea and the members of the technical assessment mission undertaken by the Office of the United Nations High Commissioner for Human Rights, including the mission from 1 to 5 February 2016, while concerned at their limited access to the country, and encouraging further such missions,

Commending the commission of inquiry on human rights in Eritrea for completing its work in a transparent, impartial and consultative manner while regretting the continued lack of cooperation by the Government of Eritrea with the commission of inquiry and the Special Rapporteur on the situation of human rights in Eritrea, including the lack of access to the country,

Welcoming the report of the commission of inquiry on human rights in Eritrea, and taking note its content and recommendations,[1]

Emphasizing that everyone has the right to take part in the conduct of public affairs of his or her country, directly or through freely chosen representatives, and expressing grave concern that national elections in Eritrea have not been held since 1993 and that the Constitution of 1997 has never been implemented,

Expressing deep concern at the commission's findings that there are reasonable grounds to believe that crimes against humanity have been committed in Eritrea since 1991,

Also expressing deep concern at the commission's findings that Eritrean officials have committed and continue to commit the crimes of enslavement, imprisonment, enforced disappearance, torture, other inhumane acts, persecution, rape and murder,

Noting with deep concern the commission's findings regarding crimes involving human rights violations, committed by government and ruling party officials, military commanders and members of the National Security Office,

Noting the commission's identification of individual suspects and careful maintenance of relevant information that may assist future accountability efforts,

Noting with grave concern the continued use by the Government of Eritrea of arbitrary arrest and detention, including incommunicado detention in extremely harsh and life-threatening conditions, of persons suspected of evasion of national service, attempting to flee the country or having a family member who has fled, inability to produce identity documents, exercising the right to freedom of religion, freedom of opinion, being perceived as critical of the Government, and of those who return to the country, as well as those detained in the aftermath of the takeover on 21 January 2013 of the building of the Ministry of Information,

Noting with regret the use of conscripts as forced labour in a wide range of economic activities,

Welcoming the release by the Government of Eritrea of four Djiboutian prisoners of war on 18 March 2016, while recalling that 13 other Djiboutian prisoners of war are still detained in Eritrea,

Expressing grave concern at the widespread use of indefinite conscription into national/military service, a system that constitutes forced labour, and the reported forced

[1] A/HRC/32/47.

conscription of children under the age of 18 into military service, and regretting that the fear and experience of a lengthy national service causes large numbers of Eritreans to leave the country,

Deeply concerned that the situation of human rights in Eritrea is a primary factor in the increasing number of Eritreans leaving their country, often facing risks of abduction, abhorrent physical and mental abuse and other ill-treatment on their migration path, including abuses by smugglers and human traffickers, while welcoming the participation of the Government of Eritrea in multilateral forums to discuss trafficking,

Noting with deep concern the commission's findings regarding persecution on both religious and ethnic grounds, including its assessment that there are reasonable grounds to believe that Eritrean officials have intentionally and severely deprived Eritrean Kunama and Afar persons of the enjoyment of their human rights and fundamental freedoms and that, at a minimum, the persecution of members of non-authorized religious denominations persists,

1. *Welcomes with appreciation* the report of the commission of inquiry on human rights in Eritrea,[1] stresses the importance of the work of the commission of inquiry and the information it has collected in support of future accountability, and urges the Government of Eritrea to take immediate and concrete steps to implement its recommendations;

2. *Welcomes* the oral update of the Special Rapporteur on the situation of human rights in Eritrea to the Human Rights Council at its thirty-first session on the issue of unaccompanied Eritrean children, and recognizes the special protection needs of unaccompanied children fleeing Eritrea and who are subjected to violations and abuses of human rights such as, inter alia, trafficking, abduction for ransom, sexual violence and torture;

3. *Condemns in the strongest terms* the reported systematic, widespread and gross human rights violations that have been and are being committed by the Government of Eritrea in a climate of generalized impunity;

4. *Condemns in particular* the arbitrary detention, enforced disappearances, enslavement, torture, killing, sexual violence, discrimination on the basis of religion and ethnicity and reprisals for the alleged conduct of family members, as well as the human rights violations in the context of indefinite national service, including those involving forced labour, the forced military conscription of children and sexual violence;

5. *Expresses its deep concern* at the severe restrictions on the rights to freedom to hold opinions and expression, freedom to seek, receive and impart information, liberty of movement, freedom of thought, conscience and religion, and freedom of peaceful assembly and association, and at the detention of journalists, human rights defenders, political actors, religious leaders and practitioners in Eritrea;

6. *Reiterates* its numerous calls upon the Government of Eritrea, without delay:

(*a*) To end its use of arbitrary detention of persons in Eritrea, and to end the use of torture or other cruel, inhumane and degrading treatment or punishment;

(*b*) To account for and release all political prisoners, including members of the G-15 reform group and journalists;

(*c*) To account for those detained in the aftermath of the takeover on 21 January 2013 of the building housing the Ministry of Information, and either to release them or to ensure that they are given a fair and transparent trial without undue delay and with full respect for minimum fair-trial guarantees;

(*d*) To ensure free, fair and equal access to an independent and impartial court to challenge the lawfulness of any detention, and to improve prison conditions, including by prohibiting the use of underground cells and shipping containers to hold prisoners, ending the use of secret detention centres and the practice of incommunicado detention, allowing regular access to prisoners for relatives, legal advocates and independent monitoring mechanisms, and to permit prompt and regular unhindered access to medical care;

(*e*) To put an end to the system of indefinite national service by demobilizing national service conscripts who have completed their mandatory 18 months of service, as announced by the Government of Eritrea, and by effectively ending the practice of engaging them in forced labour after such a period, to provide for conscientious objection to military service, and to end the compulsory practice of all children undertaking the final year of schooling in a military training camp;

(*f*) To end the practice of forcing citizens to participate in the militia;

(*g*) To investigate promptly all allegations of extrajudicial killings, torture and other cruel, inhumane and degrading treatment or punishment, rape and sexual abuse within the national service, and to bring perpetrators to justice;

(*h*) To end, and to confirm the end to the practice of shooting to wound or kill citizens attempting to cross the border to flee the country;

(*i*) To collaborate with human rights and humanitarian organizations and to allow them to operate in Eritrea without fear or intimidation in order to facilitate the full implementation of the Strategic Partnership Cooperation Framework for 2013-2016 signed by the Government of Eritrea and the United Nations on 28 January 2013, as well as other human rights-related projects;

(*j*) To respect everyone's right to freedom of expression and to freedom of thought, conscience and religion or belief, and the rights to freedom of peaceful assembly and of association;

(*k*) To enhance further the promotion and protection of women's rights, including by taking additional measures to combat harmful practices, such as child, early and forced marriage and female genital mutilation;

(*l*) To implement the recommendations made during its second universal periodic review, to report on progress made and to cooperate fully with the Human Rights Council and the universal periodic review during its third cycle;

(*m*) To end "guilt-by-association" policies that target family members of those who evade national service, seek to flee Eritrea or commit any other alleged crimes;

(*n*) To strengthen cooperation with the Office of the United Nations High Commissioner for Human Rights in accordance with its international human rights obligations, and to consider inviting the Office to establish a presence inside the country;

(*o*) To allow unhindered access to the country to further missions by the Office of the High Commissioner, the human rights treaty bodies and all mechanisms of the Human Rights Council, and to cooperate with all international and regional human rights mechanisms;

(*p*) To provide the Office of the High Commissioner with all relevant information on the identity, safety, well-being and whereabouts of all detained persons and persons missing in action, including members of the G-15, journalists, those detained in the aftermath of the takeover on 21 January 2013 of the building of the Ministry of Information, and the 13 Djiboutian combatants still detained;

(q) To allow the creation of political parties and guarantee their political participation and to hold free, fair and transparent democratic elections at all levels;

(r) To account for the modalities and the progress of the expert group appointed to work on a constitution for Eritrea, while implementing the Constitution of 1997 in the meantime, and to govern in accordance with the principles of the rule of law;

7. *Encourages* States in which witnesses reside to protect those who have cooperated with the commission of inquiry and the Special Rapporteur, and in particular to protect them from reprisals;

8. *Takes note* of the commission's conclusion that a regional mechanism could be created to address accountability in Eritrea, given the commission's assertion that neither a hybrid tribunal nor a truth commission would be a viable option in the current circumstances;

9. *Urges* Eritrea to make available information pertaining to the remaining Djiboutian combatants missing in action since the clashes of 10 to 12 June 2008 so that those concerned may ascertain the presence and condition of Djiboutian prisoners of war;

10. *Decides* to extend the mandate of the Special Rapporteur on the situation of human rights in Eritrea for a period of one year, and requests the mandate holder to follow up on the implementation of the recommendations of the commission of inquiry in its report, to present an oral update to the Human Rights Council at its thirty-fourth session and to submit a written report on the situation of human rights in Eritrea to the Council at its thirty-fifth session, and to address and engage in an interactive dialogue with the General Assembly at its seventy-first session;

11. *Calls upon* the Government of Eritrea to cooperate fully with the Special Rapporteur, to permit the Special Rapporteur and her staff members unrestricted access to visit the country, to give due consideration to the recommendations contained in the reports of the Special Rapporteur, and to provide her with the information necessary for the fulfilment of her mandate, and underlines the importance for all States to lend their support to the Special Rapporteur for the discharge of her mandate;

12. *Requests* the Office of the High Commissioner to continue to enhance engagement in improving the situation of human rights in Eritrea, and to present an oral update to the Human Rights Council at its thirty-fifth session on progress in the cooperation between Eritrea and the Office, and on its impact on the situation of human rights in Eritrea;

13. *Urges* the international community to strengthen efforts and collaboration to ensure the protection of those fleeing from Eritrea, in particular unaccompanied children;

14. *Encourages* business enterprises to carry out appropriate human rights due diligence in order to identify, prevent, mitigate and account for how they address their human rights impact, including with respect to allegations of use of conscript labour;

15. *Encourages* Member States to increase attention and, if feasible, resources to improve the situation of human rights in Eritrea by strengthening engagement with the Government of Eritrea;

16. *Requests* the Secretary-General to provide the Special Rapporteur with all information and the resources necessary to fulfil her mandate;

17. *Requests* the General Assembly to submit the report and the oral updates of the commission of inquiry to the Security Council for its consideration and appropriate action, including that those responsible for human rights violations, including those that may amount to crimes against humanity, be held accountable;

18. *Strongly encourages* the African Union to follow up on the report and recommendations of the commission of inquiry on human rights in Eritrea by establishing an investigation, supported by the international community, with a view to examining and bringing to justice those responsible for violations and abuses of human rights identified by the commission of inquiry, including any that may amount to a crime against humanity;

19. *Decides* to remain seized of the matter.